

REMARKS

Claims 1-45 are pending in this application. Claims 31 and 40 have been amended by this Amendment. Attached hereto is a marked-up version of the changes made to claims 31 and 40. The attachment is captioned "**Version with Markings to Show Changes Made**".

The Office Action dated January 15, 2003 objected to claims 31 and 40 because of informalities; rejected claims 1-45 as being directed towards statutory subject matter; rejected claims 1-3, 5-6, 8-11, 13, 15-17, 19-25, 32, 34-37 and 40-41 as being anticipated by U.S. Patent No. 5,758,329 to Wojcik; and rejected claims 4, 7, 12, 14, 18, 26-31, 33, 38, 39 and 42-45 as being obvious in view of U.S. Patent No. 5,758,329 to Wojcik.

Preliminary Amendment

A Preliminary Amendment was filed on November 7, 2001 merely to correct a discrepancy between the drawings, which contain Figs. 1A-1C, and the original specification, which referred merely to Fig. 1, by amending the specification throughout to refer to Figs. 1A-1C. However, the outstanding Office Action states that it is responsive to communication(s) filed on July 27, 2001 and does not mention the Preliminary Amendment. Applicants respectfully request that the Preliminary Amendment be acknowledged.

Claim Objections

The objections to claims 31 and 40 are because of informalities and are set forth on page 2 of the Office Action. Specifically, the objections state that each one of the claims is missing a period at the end of the claim. Applicants have amended claims 31 and 40 to provide the period and respectfully submit that the claim objections have been overcome by the amendments.

Statutory Subject Matter

The grounds for the rejection of claims 1-45 as directed to non-statutory subject matter is set forth on page 2 of the Office Action. Specifically, the rejection asserts that the claims are not directed to statutory subject matter because “[m]ere ideas in the abstract that do not apply, involve, use or advance the technological arts fail to promote the progress of science and the useful art” and “the shipment of goods does not explicitly claim the use of a computer, or other technological system, to determine the shipments for a good from an origin to a destination location.” Applicants respectfully traverse the rejection for at least the following reasons.

Applicants first respectfully submit that the claims are not directed to mere ideas in the abstract. Each one of the claims is directed to an integrated logistics system for managing the shipment of goods or to a method for managing the shipment of goods. The shipment of goods is not a mere idea in the abstract. To the contrary, it is a problem that exists in the real world as indicated in the Description of the Related Art on pages 2-4 of the specification.

Even assuming arguendo that the invention did not include the use of technology, it would still be directed to statutory subject matter according to the MPEP, which reads in pertinent part as follows:

“The claimed invention as a whole must accomplish a practical application. That is, it must produce a “useful, concrete and tangible result.” *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of “real world” value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research...” Manual of Patent Examining Procedure, Eighth Edition, Section 2106, page 2100-6.

The management for the shipment of goods from one location to another is a practical application with a useful, concrete and tangible result and which possesses a certain level of real world value. Because each one of the claims recites the management for the shipment of goods, they are directed to statutory subject matter even assuming for the sake of argument that they do not apply, involve, use or advance the technological arts.

Applicants also respectfully submit that the recitation of a logistics system in the claims causes the claimed invention to apply, involve, use or advance the technological arts. Logistics systems are known in the art as technological systems and are recognized as such in the Wojcik et al patent. The rejection fails to acknowledge the recitation of a logistics system in each of the claims, including the method claims. Applicants respectfully submits that such claims reciting a logistics system are directed to statutory subject matter. See, for example, claims 10 and 19 of the Wojcik et al patent.

Anticipation Rejection

The grounds for the rejection of claims 1-3, 5-6, 8-11, 13, 15-17, 19-25, 32, 34-37 and 40-41 as being anticipated by U.S. Patent No. 5,758,329 to Wojcik is set forth in part 2 of the Office Action. Applicants respectfully traverse the rejection at least because it does not establish a prima facie case that Wojcik et al discloses each and every one of the combination of features recited in the claims.

Claim 1 is independent and recites an integrated logistics system for “managing the shipment of goods supplied from a plurality of different shippers by a plurality of carriers.” In other words, the party managing the shipment of goods is itself not one of the plurality of shippers or one of the plurality of carriers. As made clear in the drawings, the managing party is a 3rd party to the shippers and carriers.

The system in the Wojcik et al patent is thus fundamentally different from the logistics system recited in claim 1 because it is directed to a system which allows an organization “to reduce the outbound and also the inbound freight costs of the organization.” Although the organization does use a plurality of carriers to ship goods, these shipments are shipments from the organization itself and are not shipments from a plurality of shippers.

Claim 1 also recites a purchasing module “evaluating proposals by shippers for respective shipments of goods and awarding contracts for the shipments to the plurality of carriers”; an optimization module “analyzing the proposals”; and a contract administration module “maintaining information relating to the status of proposals received...” These proposals are received from a plurality of shippers having goods they wish to have shipped.

The rejection cites the portions of the Wojcik et al patent at col. 1, lines 53-62; col. 4, lines 35-58; and col. 5, lines 9-21 for the purchasing module. However, these cited portions refer to orders from customers who wish to buy and receive goods from the organization. They are not orders from a plurality of shippers. (Nor are they orders from carriers.) Furthermore, the orders are not proposals for the shipment of goods. They appear to only request the purchase of goods, and do not involve or prescribe conditions for the shipment of goods. The rejection also cites col. 8, line 55, to col. 10, line 41 for the consolidation module. Although the cited portion might suggest consolidation, it does not disclose the proposals by shippers for respective shipments of goods. Indeed, the obviousness rejection of claim 26 (discussed below) appears to acknowledge that Wojcik et al does not disclose such proposals.

Claim 32 is an independent claim directed to a method of arranging for the shipment of goods from an origin to a destination. It recites “retrieving routing information for a plurality of different transport modes” and “determining a routing for the shipment of goods from said origin to said destination based on said retrieved routing information.” The originally filed specification makes clear that the different transport modes are, for example, air, truck, ocean tanker, etc., and that the routing information is the path along which goods are shipped.

The rejection cites col. 10, lines 54-67, as disclosing the feature of retrieving routing information and col. 10, line 60, to col. 11, line 30 as disclosing the feature of determining a routing. However, the cited portion at column 10 merely mentions in-house fleets and truck carriers. There is no indication of a plurality of different transport modes as recited in the

retrieving step. Furthermore, neither one of the cited portions discloses routing information. They mention only the service areas which are served by the carriers.

Obviousness Rejection

The grounds for the obviousness rejection of claims 4, 7, 12, 14, 18, 26-31, 33, 38, 39 and 42-45 as being obvious in view of U.S. Patent No. 5,758,329 to Wojcik No other references are cited in the rejection. Applicants respectfully traverse the obviousness rejection at least because it does not establish a prima facie case that the Wojcik et al patent suggests each and every one of the combination of features recited in the claims.

Independent claim 26 is directed to a method of arranging for the shipment of goods by one of a plurality of carriers. It recites “receiving a proposal for the shipment of goods supplied from a shipper, said proposal including shipping information relating to the shipment of the goods and transaction information relating to the contract terms for the shipment”; “evaluating the proposal...”; and “creating an electronic abstract of a contract between the shipper and the selected carrier for the shipment of goods identified in the proposal.”

For the reasons discussed above, applicants respectfully submit that Wojcik et al neither discloses nor suggests receiving proposals for the shipment of goods supplied from a shipper. The rejection asserts, without any support whatsoever, that it is old and well known in the art for a supplier to receive the proposals from the shippers and select a carrier for the shippers. Applicants do not agree that such a 3rd party logistics provider is old and well

known in the art. Indeed, this is made clear from the Background portion of the originally filed specification. Furthermore, if indeed such 3rd party logistics providers were old and well known in the art, then there should not be any difficulty in citing a document evidencing that fact.

Furthermore, applicants submit that there is no suggestion in Wojcik et al of the features that the proposal include “shipping information relating to the shipment of the goods and transaction information relating to the contract terms for the shipment” and that “an electronic abstract” is created. The rejection acknowledges that these features are recited in claim 26 and are not suggested by Wojcik et al. However, these features are not addressed in the rejection. In particular, no assertion is made that they are obvious to one of ordinary skill in the art.

With respect to the dependent claims included in the obviousness rejection, the rejection merely asserts that certain features thereof are old and well known in the art. No document is ever cited as a secondary reference to support any of these assertions. Applicants respectfully challenge the assertions and again suggest that, if indeed such features are old and well known, it should be no problem to locate and cite a secondary reference.

To the extent necessary, Applicants petition for an extension of time under 37 CFR § 1.136. Please charge any shortage in fees due in connection with the filing of this paper, or credit any overpayment of fees, to the deposit account of Brown Raysman, Account number 02-4270.


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Respectfully Submitted



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I hereby certify that this paper is being deposited this date with the U.S. Postal Service as First Class Mail addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231


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4/15/03
Date

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31. A method of arranging for the shipment of goods as recited in claim 26, further comprising sending an electronic abstract of the proposal to the potential carriers;

evaluating responses to the electronic abstract received from the potential carriers, said responses including shipping information supplied by the carrier relating to the shipment of the goods or transaction information relating to the contract terms for the shipment;

selecting one of the potential carriers for the on the basis of the responses to the electronic abstract and the carrier information maintained in said centralized logistics system[;] .

40. A method according to claim 31, wherein one of said plurality of different transport modes comprises containership transport.